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M. Hordell

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-190990

DATE: January 24, 1978

MATTER OF: Sachs/Freeman Associates, Inc.

DICEST:

GAO will not consider protest questioning small business status of concern since authority to determine size status of business concerns is vested in SBA.

Sachs/Freeman Associates, Inc. (Sachs/Freeman), protests the award of a contract to Potomac Research, Inc. (Potomac), under request for proposals (RFP) No. N00690-77-5019, issued on January 14, 1977, by the Department of the Navy, Washington Navy Yard, Washington, D. C. Essentially, the protest questions Potomac's small business size status.

Sachs/Freeman's main contention is that the Small Business Administration (SBA) should have used the 1975, 1976 and 1977 fiscal years to make its determination of whether or not Potomac satisfied the Standard Industrial Classification No. 8911, "Engineering, Architectural and Surveying Services," size standard of \$7.5 million average annual gross receipts for the prior 3-year period. SBA used the 1974, 1975 and 1976 fiscal years since Potomac's books for 1977 were not closed and, according to its Size Appeals Board rulings, could not be included in computing total average annual receipts.

Under 15 U.S.C. § 637(b)(6) (1970), the SBA is empowered to conclusively determine matters of small business size status for Federal procurement purposes, with the result that decisions of the SBA and its Size Appeal Boards are not subject to review by this Office. Pacific American Airlines, B-187504, B-187505, October 13, 1976, 76-2 CPD 330; Limpio Industries, B-187255, September 30, 1976, 76-2 CPD 301; Merritt Enterprises, Inc., et al., B-186412, June 16, 1976, 76-1 CPD 388.

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Accordingly, we will not consider the protest on the merits.


Paul G. Dembling
General Counsel